HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3867 of 2007

Dated:12.04.2007

Between:

Chilaka Satya Venkateswara Rao.

…Petitioner

and

The District Collector and others.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.3867 of 2007

ORDER:

It is the case of the petitioner that the land admeasuring Ac.1.40 cents in survey No.9/1 situated at Kancharapalem Village, Visakhapatnam Mandal, was mortgaged to Sri Ch.Padmanabha Swamy Naidu and
Sri Ch.Sanjeeva Rao Naidu by Sri Kattamuri Venkata Ramakrishnaiah and his minor son under a registered document, dated 06.12.1902. The petitioner claims to be the grandson of Sanjeeva Rao Naidu, one of the mortgagees. He also claims that the land has been in possession of the petitioner and his family. When there was a threat of land grab, the petitioner approached the Mandal Revenue Officer requesting to certify and demarcate the land as per the registered document and also paid necessary amount by way of a challan, in vain. Therefore, he filed the instant Writ Petition.

At the stage of admission itself, a counter-affidavit is filed. The possession of the petitioner is denied. It is stated that the land in survey No.9/1 of Kancharapalem Village is classified as 'poramboke' during survey and settlements conducted in 1957-1958, that in 1997 during the inspection, the Mandal Revenue Officer found the land to be under encroachment of 18 persons, that the petitioner was not one of the encroachers and that the land is recorded as 'Distillery land' in the name of Sri K.V.Ramaraju, Dhanareddy and Company, with houses thereon. Therefore, the writ petition is opposed alleging that the petitioner is seeking survey and demarcation with ulterior motive to grab the land.

The petitioner filed a reply-affidavit, *inter alia*, stating that the mortgage deed under which petitioner's grandfather was inducted into possession shows that the compound wall of Bungalow of Distillery Officer as southern boundary, which would show that the land is in possession of the petitioner.

A perusal of the pleadings would show that there is a dispute regarding the title and possession of the petitioner. Even according to the petitioner, about 100 years ago, the land was mortgaged by Kattamuri Venkata Ramakrishnaiah and his minor son to the petitioner's grandfather and another. Except making such allegation, no evidence is placed before this Court to show that the petitioner is still in possession of the land. Learned counsel for the petitioner placed reliance on two earlier orders passed by this Court in W.P.Nos.14078 of 1989 and 28721 of 1995. After perusing the orders passed by this Court in the said writ petitions, this Court is convinced that the land is described as being in survey No.9/1, but not poramboke land. When the land claimed by the petitioner is classified as 'poramboke', he cannot seek any writ from this Court. However, this Court observes that the Mandal Revenue Officer may pass necessary orders on the representation made by the petitioner in August, 2006, within a period of two weeks from the date of receipt of a copy of this order. If the Mandal Revenue Officer passed any adverse order denying the title of the petitioner, it shall be open to him to approach the civil Court and seek declaration of title.

The Writ Petition, with the above observations, is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

12.04.2007

Note: Furnish C.C. in one week.

(B/o)

GJ